



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/02/2024

ITEM NO: 21

DESK ITEM

DATE: April 2, 2024
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Discuss the Code of Conduct Policy Sections V. and XI. Pertaining to Councilmember Communications

RECOMMENDATION:

Attachment 2 contains a staff presentation.

Attachment Previously Received with the Staff Report:

1. October 4, 2022 Redline version of the Code of Conduct Policy

Attachment Received with this Desk Item:

2. Staff Presentation

PREPARED BY: Jenna De Long, Deputy Town Clerk

Reviewed by: Town Manager and Town Attorney

Town Council Code of Conduct

Town Council Meeting
April 2, 2024

Two Primary Sections at Issue

- Section V(C) currently provides that the title of Mayor carries with it the responsibility for communicating decisions of the Town Council to the public and the media.
- Section XI addresses Councilmember communications in general.

Section V(C)

- “The title of Mayor carries with it the responsibility of communicating with the Town Council, Town Manager, members of the public, and the media regarding decisions made by a majority of the Town Council.”

Section XI

- “The public has a reasonable expectation that it may engage its Council Members on matters of community concern. In response, Council Members may express a preliminary opinion on general issues or policies that are in the development phase. In addition, Council Members may from time to time express opinions regarding broad policy matters which may be in conflict with currently adopted Council policies or explain an individual vote. Such statements are permissible if clearly characterized as personal opinion or policy change objectives rather than the opinion of the full Town Council.”

Policy Committee Discussion re Section V(C)

1) Full Town Council to discuss whether to retain and/or reword this provision.

Options:

1) Clarify to say “is responsible” or “shall.”

2) Allow Mayor to delegate authority.

3) Provide that, in Mayor’s absence or unavailability, Vice Mayor is responsible.

2) Clarify that Mayor’s communications with the Town Council will conform with the Brown Act.

Policy Committee Discussion Re Section XI

- 1) Add “where not prohibited by the Brown Act” to sentence referencing Mayor’s communication with Town Councilmembers.
- 2) Explain difference between a policy matter pending before the Town Council and a future quasi-adjudicatory project.
- 3) Separate out discussion of quasi-adjudicatory decisions and address participation in community meetings.

Section XI (continued)

- 4) Change references to “full” Town Council to a “majority” of the Town Council.
- 5) Add more explicit language from Gilroy sample: “No Councilmember shall communicate in a manner that appears to come from the Town or Town staff or the Town Council, or in a manner that suggests a position associated with the Town or with the knowledge of the Town Council.”
- 6) Provide examples of how to indicate to the press that a Councilmember is speaking on his or her own behalf and not on behalf of the Council.

Discussion
